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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Via Electronic Filing

Marlene H. Dortch
Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: WC Docket No. 02-150: Application by BellSouth for Authorization to Provide In-Region InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina and South Carolina

Dear Ms. Dortch:

WorldCom's Reply Comments and two Declarations are being filed publicly today in the above proceeding, with the exception of Att. 3 to the Frentrup Declaration, which contains confidential BellSouth information. The confidential document is being submitted with an appropriate cover letter with the understanding that the confidential material will be fully protected by the Protective Order established specifically for this docket and that the requirements for review and use of the document will be fully satisfied.

Please call me at (202) 887-2993 with any questions.

Sincerely,

Keith L. Seat
Senior Counsel
Federal Advocacy

Enclosures

cc (w/encl.): Janice Myles, Aaron Goldberg, Qualex International, James Davis-Smith (DOJ), Honorable John Garner (Alabama PSC), Deborah Eversole (Kentucy PSC), Brian U. Ray (Mississippi PSC), Robert H. Bennick, Jr. (North Carolina UC), Gary E. Walsh (South Carolina PSC), Susan Pié

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Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina, and South Carolina	)))))))))	CC Docket No. 02-150

REPLY COMMENTS OF WORLDCOM, INC. ON THE APPLICATION BY BELLSOUTH FOR AUTHORIZATION TO PROVIDE IN-REGION, INTERLATA SERVICES IN ALABAMA, KENTUCKY, MISSISSIPPI, NORTH CAROLINA, AND SOUTH CAROLINA

Marc A. Goldman
JENNER & BLOCK, LLC
601 13th Street, N.W., Suite 1200
Washington, D.C. 20005
(202) 639-6000

Keith L. Seat
WORLDCOM, INC.
1133 19th Street, N.W.
Washington, D.C. 20036
(202) 887-2993

August 5, 2002

INTRODUCTION AND EXECUTIVE SUMMARY

BellSouth has made no significant improvements in the weeks since WorldCom filed its initial comments in opposition to BellSouth's joint section 271 application for Alabama, Kentucky, Mississippi, North Carolina, and South Carolina. BellSouth has not shown that it can effectively implement changes to its operations support systems ("OSS") without causing significant harm to CLECs. Nor has BellSouth reduced its prices to render them TELRIC compliant.

Although the Department of Justice suggests that approval of the application may be possible once this Commission resolves concerns expressed in the Department's Evaluation, it emphasizes BellSouth's serious problems with its change management process, including its unilateral alteration of performance measures. BellSouth's continued change management failures, despite prior Commission warnings that BellSouth's change management will be closely scrutinized, warrant denial of the application.

Rejection is also warranted because of the absence of evidence that BellSouth's OSS is commercially ready in the states for which it has applied. As WorldCom explained in its initial comments based on a careful analysis by the Tennessee Regulatory Authority, BellSouth's OSS is not regional. No party has provided further evidence of regionality. While a change in composition of the Tennessee Regulatory Authority apparently caused a change in that commission's conclusion on regionality, no new facts were reviewed. The original analysis showing lack of OSS regionality remains valid. Thus, BellSouth cannot rely on the Commission's *Georgia/Louisiana Order* as a basis for finding its OSS is ready in the states at issue here.

BellSouth must also reduce its rates. No commenter justifies the high UNE rates that BellSouth charges in the application states. BellSouth's OSS and DUF charges amount to double recovery. Its loop and switching charges are far too high as a result of improper modeling techniques. And its South Carolina rates are not deaveraged based on cost. Until BellSouth reduces its UNE rates, its application must be denied.

In short, BellSouth still needs to resolve its remaining problems before it gains long distance authority, and in particular needs to begin working much more effectively with CLECs. The Commission should deny this application and encourage BellSouth to resolve its problems, and ensure that the fixes actually work through commercial experience or valid third-party testing, before again seeking section 271 authorization.

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TABLE OF DECLARATIONS

Tab	Declarant	Subject
A	Sherry Lichtenberg	OSS
B	Dr. Chris Frentrup	Pricing

TABLE OF CITATION FORMS

FCC Orders	
Georgia/Louisiana Order	In re Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc. And BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Georgia and Louisiana, CC Docket No. 02-35, Memorandum Opinion and Order, FCC 02-147 (rel. May 15, 2002).
Declarations and Affidavits	
Frentrup Reply Decl.	Reply Declaration of Chris Frentrup on Behalf of WorldCom Inc. (Tab B hereto).
Lichtenberg Reply Decl.	Reply Declaration of Sherry Lichtenberg on Behalf of WorldCom Inc. (Tab A hereto).
DOJ Evaluations	
DOJ Eval.	Evaluation of the DOJ, In re Joint Application of Bellsouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-region, InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina and South Carolina, WC Docket No. 02-150 (July 30, 2002).
Other Materials	
BellSouth July 10 *ex parte* letter	Letter to Marlene H. Dortch, FCC, from Kahtleen B. Levitz, BellSouth, WC Docket No. 02-150, filed July 10, 2002.
Order No. PSC-02-0989-PAA-TP	*In re Investigation into the Establishment of Operations Support Systems Permanent Performance Measures for Incumbent Local Exchange Telecommunications Cos.*, Docket No. 000121A-TP, Order No. PSC-02-0989-PAA-TP (Fla. Pub. Serv. Comm'n July 22, 2002).
Docket No. 000121A-TP, July 25, 2002	*In re Investigation into the Establishment of Operations Support Systems Permanent Performance Measures for Incumbent Local Exchange Telecommunications Cos.*, Docket No. 000121A-TP, Memorandum (Fla. Pub. Serv. Comm'n July 25, 2002).

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Joint Application by BellSouth Corporation,	)	CC Docket No. 02-150
BellSouth Telecommunications, Inc.	)	
and BellSouth Long Distance, Inc., for	)	
Provision of In-Region, InterLATA	)	
Services in Alabama, Kentucky, Mississippi,	)	
North Carolina, and South Carolina	)	
	)	

WORLDCOM REPLY COMMENTS

BellSouth has made little progress since WorldCom filed its initial comments. In these reply comments, WorldCom will provide brief updates on the issues it raised previously, discuss the Evaluation of the Department of Justice, and address questions raised by Commission Staff, beginning with OSS issues.

I. BELLSOUTH'S OSS REMAINS INADEQUATE

A. BellSouth Fails to Smoothly Implement OSS Changes

BellSouth has not implemented any additional OSS releases since WorldCom filed its initial comments. Nonetheless, the intervening weeks have provided further evidence of BellSouth's inability – or unwillingness – to smoothly implement changes and resolve defects in its OSS.

On July 25, 2002, BellSouth announced for the first time that, in order to take advantage of the changes scheduled to go into effect with Release 10.6 on August 24, 2002, CLECs would have to amend their interconnection agreements to allow them to place orders using new Universal Service Order Codes. There is no reason that BellSouth should require such contract amendments. The changes scheduled for Release 10.6 are intended to correct BellSouth defects, including BellSouth's improper treatment of some intraLATA calls as local calls, a defect that WorldCom discussed extensively in the Georgia/Louisiana proceedings. CLECs should not need to amend their contracts to avoid the ongoing impact of defects in BellSouth's OSS. Lichtenberg Reply Decl. ¶¶ 2-3.

Moreover, BellSouth should not have waited until July to announce the necessity of contract amendments, when there was little time to resolve the need for an amendment or to actually incorporate it. BellSouth first informed CLECs in April of its intention to implement changes to fix several defects in its OSS. BellSouth could readily have announced the need for contract changes at that time if any were legitimately needed – especially since the changes were then scheduled to occur in July. Amending contracts with BellSouth is often an arduous and time consuming process. Rather than facilitating that process, BellSouth has once again taken steps to make implementation of change more difficult. Lichtenberg Reply Decl. ¶ 4.

BellSouth's upcoming implementation of Release 10.6 is a continuing source of concern for a further reason as well. Since BellSouth opened its CAVE test environment for carrier-to-carrier testing, eleven defects have been discovered in that release, including one that BellSouth labeled "critical" and six that BellSouth labeled "serious." Hopefully, these defects will all be corrected before the software is placed into production. But if BellSouth's internal testing were working as it should, there would have been few, if any, defects by the time the release was placed into the CAVE environment. The purpose of carrier-to-carrier testing is primarily for CLECs to determine whether their interfaces will work with the ILEC's interface; it is only secondarily to root out any remaining glitches in the ILEC's interface. The number of defects already discovered in CAVE makes it difficult for CLECs to test their interfaces effectively. It also makes it more likely that the release will contain significant errors when put into production. Lichtenberg Reply Decl. ¶ 5. It is troublesome that these defects have occurred despite the new procedures implemented by BellSouth that it – and the Department of Justice – tout as possible solutions to the defect issue. *See* DOJ Eval. at 9-10, BellSouth July 10 *ex parte* letter.

Of course, the preliminary problems with Release 10.6 are not yet as substantial as those BellSouth has had with each of its prior releases. The Florida Commission staff recently agreed with KPMG and with WorldCom that BellSouth's past performance has been dismal. The Florida staff explained that 87 percent of the change requests BellSouth implemented between May 10 and June 10, 2002 were designed to correct defects, underscoring the sheer number of defects. Order No. PSC-02-0989-PAA-TP, at 10 (July 22, 2002). And the comparable figure over the years since the Change Control Process began in 1998 is 76%. *Id.* The staff noted that, despite the concerns the FCC expressed with release quality in its Georgia/Louisiana decision, BellSouth's most recent release, Release 10.5, was of poor quality. The release had to be delayed because of severe defects and even then "there were still high and medium-impact defects in Release 10.5 after it was placed into production." *Id.*

The impact of such defects is significant. As the Florida staff explained, in addition to the impact on CLECs caused by the defects themselves, which even BellSouth acknowledges includes the erroneous rejection of thousands of orders (July 10 *ex parte* letter), delays in release dates harm CLECs and the resources spent correcting defects may "divert[] resources from addressing and providing [CLEC]-requested new features." Order No. PSC-02-0989-PAA-TP at 9. In addition, because BellSouth was not properly coding the severity level of defects, BellSouth often did not correct defects quickly. *Id.* at 10. The Florida PSC therefore ordered BellSouth to implement performance measures on (1) the number of defects in future releases;

(2) the interval for correction of defects; and (3) the validation of software by BellSouth. The most important measure, the number of defects in future releases, is not associated with any penalty, however. Lichtenberg Reply Decl. ¶ 6.

Like the Florida staff, the Department of Justice expressed concern that Release 10.5 "contained a number of defects that had not been discovered in pre-release testing." DOJ Eval. at 11. It noted that the "Commission should carefully monitor BellSouth's future releases." *Id.* at 12. WorldCom agrees that the Commission should carefully monitor future releases, but believes that BellSouth's recent performance is so poor that its application must be rejected at this time. The Commission cannot rely on new performance measures adopted in *Florida* to justify approval of BellSouth's section 271 application in other states, none of which have adopted similar measures.

B. <u>BellSouth Fails to Effectively Manage Change in Other Ways</u>

BellSouth fails to provide CLECs adequate notice of upcoming changes and fails to ensure that important CLEC-initiated changes will be implemented. After noting BellSouth's past failures to notify CLECs in advance of changes regarding performance measures, the Department of Justice expressed serious concern about the "many additional changes" to performance measures that BellSouth made without providing notification to CLECs. DOJ Eval. at 13. WorldCom shares this concern and cooperated with the Southeastern Competitive Carriers Association in filing a complaint in Georgia based on BellSouth's actions. This petition resulted in a somewhat improved process in Georgia in which BellSouth is supposed to announce changes in advance and discuss them with CLECs. No similar process yet applies to performance measures in the states at issue here, however. Moreover, BellSouth's failure to provide advance notice of the metrics changes is further evidence that there is not yet a basis for concluding that BellSouth will follow other important change management processes on a going-forward basis.

BellSouth's failure to effectively manage change extends to continued failure to notify CLECs of interface changes before those changes have been implemented. In WorldCom's initial Comments, we described BellSouth's decision to preclude CLEC customers from obtaining BellSouth long distance service. BellSouth implemented this decision by programming its interface to reject such orders. Although this was a CLEC affecting change, "BellSouth apparently did not give advance notice to CLECs that orders designating BellSouth as the long distance carrier would be rejected," as the Department of Justice notes. DOJ Eval. at 9.

Indeed, WorldCom began receiving rejects on such orders weeks before BellSouth announced to CLECs that such orders would be rejected. Lichtenberg Reply Decl. ¶ 8. The Department of Justice articulates its hope that the new definition of CLEC-affecting change to which BellSouth has agreed will prevent similar problems from arising in the future, DOJ Eval. at 9, but this definition was in place *before* BellSouth made the change to begin rejecting CLEC orders. Moreover, this change was CLEC-affecting even under the old definition. Lichtenberg Reply Decl. ¶ 8. BellSouth simply ignored the impact of this change on CLECs before it implemented it. BellSouth's poor change management track record warrants rejection of its application.

Further, BellSouth still has not provided any assurance that it will in the future implement important CLEC-initiated changes. WorldCom explained that this was so during the Georgia/Louisiana proceedings. The Commission agreed that BellSouth's performance was less than perfect but concluded that BellSouth's performance was improving. The Florida staff subsequently explained, however, that "[a]s of June 28, 2002, the backlog of new feature change requests had reached 65." Docket 000121A-TP, July 25, 2002 at 3. Among these were nineteen requests filed two to three years ago. The staff therefore recommended a new change control metric for percent of change requests implemented within 60 weeks of prioritization. WorldCom strongly believes that this metric will prove useful. Hopefully, it will be adopted by the Florida Commission. But even if it is, it has not yet been accepted in any of the states at issue in this application.

C. BellSouth Has Not Provided a Means for CLECs to Order BellSouth Long Distance Service

BellSouth has not altered the policy it announced on June 14 that it will not provide BellSouth long distance service to CLEC local customers. To the contrary, it is now clear that BellSouth misstated the options available to CLECs when it suggested that they could order BellSouth long distance if they entered operational agreements with BellSouth. Lichtenberg Reply Decl. ¶ 9.

After WorldCom asked what such an agreement would entail, BellSouth Long Distance responded on July 30 by stating that:

> "it will be at least 60 to 90 days before we will be able to provide service to CLEC end users and, even then, we may not be able to provide more than a limited number of offerings. We also expect constraints on our ability to interface mechanically with CLECs for some period of time. We are continuing to develop additional options, but we do not yet have an estimated availability date for these alternatives."

Letter from Janet Kibler, July 30, 2002, Att. 1 to Lichtenberg Reply Decl. For now at least, it remains impossible for CLECs to order BellSouth long distance. If a potential CLEC customers would like BellSouth long distance service, the customer must choose BellSouth local service.

D. BellSouth Continues to Misroute IntraLATA Calls as Local Calls

BellSouth has not provided any new evidence to show that it is properly routing intraLATA calls. As WorldCom explained in its initial comments, it is now clear that one reason BellSouth sometimes misroutes intraLATA calls as local calls is that BellSouth errs in translating its switches. BellSouth has not taken any steps to fix this problem.

E. The Impact of the Single C Ordering Process Remains Unclear

Although it provided no notice that it did so, BellSouth appears to have implemented the single C ordering process, which was scheduled for implementation in Alabama and South Carolina on July 20, and in North Carolina, Tennessee and Kentucky on August 3. It is too early to assess the impact of implementation. However, WorldCom has experienced line loss issues in recent days, and is attempting to determine the extent of the problem and whether it is related to single C implementation.

F. BellSouth Has Not Shown Its OSS Is Regional

After a change in composition, the Tennessee Regulatory Authority appears to have verbally rescinded its prior conclusion that BellSouth's OSS is not regional. But this revised conclusion by new commissioners does not alter the underlying facts. The empirical analysis of Local Number Portability flow-through conducted by the Authority shows statistically significant differences throughout the region. The Authority properly concluded based on this analysis, which was not available to this Commission when it issued its Georgia/Louisiana decision, that BellSouth's OSS is not regional.

BellSouth has not subsequently presented any evidence undermining this analysis -- either to the Tennessee Authority or to this Commission. The only thing that has changed since the Authority's initial decision is the composition of the Authority. That does not alter the fact that BellSouth's systems are not regional, so BellSouth must prove the readiness of its OSS in each state. This it has not done, as there has been no third party test in these states and commercial experience remains limited, as the Department of Justice noted. DOJ Eval. at 7.

II. BELLSOUTH'S UNE RATES REMAIN TOO HIGH

BellSouth's UNE rates remain far above TELRIC in each of the application states. BellSouth has not justified its exorbitant OSS charges in South Carolina, Kentucky, Mississippi and Alabama, its deaveraging methodology in South Carolina, or its basic modeling methodology and DUF rates in any of the states.

A. BellSouth's OSS Charges Are Far Too High

No new information has been presented by BellSouth on OSS charges since WorldCom filed its initial comments. Thus, there is no justification for OSS charges in South Carolina, Kentucky, Mississippi and Alabama that are more than double those in Georgia, Louisiana, and North Carolina. Indeed, no separate OSS charge is justified at all. BellSouth is already recovering its OSS costs in all states through its common cost factor.

B. BellSouth's DUF Charges Amount to Double Recovery

BellSouth's DUF costs are also recovered as part of its shared and common costs. In response to a request from Commission staff, WorldCom is submitting its state testimony that shows that this is so. Because DUF costs are recovered as part of shared and common costs, BellSouth's separate DUF charge must be eliminated before BellSouth's application can be approved.[1] Frentrup Reply Decl. ¶ 16.

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[1] WorldCom is dropping its additional argument that that the DUF rates in South Carolina and Alabama are above those in other states. BellSouth has reduced its DUF charges in those states in its latest Statements of Generally Applicable Terms. Frentrup Reply Decl. ¶ 15.

C. South Carolina Pricing is Not Properly Deaveraged

Unlike every other BellSouth state, South Carolina deaverages UNE rates based on retail rate zones rather than cost. The retail rate zones are not themselves based on cost. South Carolina's deaveraging methodology therefore violates the Commission's TELRIC rules. Frentrup Reply Decl. ¶¶ 17-18.

WorldCom explained this to the South Carolina Commission in its post-hearing brief in the South Carolina cost case and also cross-examined BellSouth witnesses on this point. *See* WorldCom *ex parte* letter dated August 1, 2002. Nonetheless, the South Carolina Commission adopted BellSouth's non-cost-based deaveraging methodology.

Other states in the region deaveraged rates based on cost. Alabama, for example, includes all wire centers with costs below the state average in Zone 1, all wire centers with costs at or above the state average but less than 150 percent of the state average in Zone 2, and all zones with higher cost in zone 3. If South Carolina had applied the same deaveraging methodology as Alabama, the rates in large zone 1 would be significantly lower than currently, zone 2 would be modestly reduced, and small zone 3 would be increased. In fact, the UNE-P rate in Zone 1, containing almost two-thirds of the households in the state, would be reduced by nearly a dollar. Frentrup Reply Decl. ¶¶ 18-19.

D. BellSouth's Use of Multiple Modeling Scenarios Results in Excessive Rates

The explanation provided in the Commission's *Georgia/Louisiana Order* for concluding that BellSouth's multiple modeling assumptions are acceptable ignores the most basic problem with that methodology. By including in each hypothetical network customer demand that would never be served by the technology being modeled, BellSouth inflates the cost of that technology.

The fact that each of the scenarios that BellSouth models includes all lines in the network, as the Commission explains (*Georgia/Louisiana Order* ¶ 41), is part of the problem with BellSouth's approach, not a response to WorldCom's criticism.[2] In modeling demand for copper loops, for example, BellSouth includes demand from customers who would never be served by copper loops in actuality because serving them via copper loops would be far too expensive. By modeling the network needed to serve such customers, BellSouth inflates the average cost of copper loops. Frentrup Reply Decl. ¶¶ 10-12.

Because the Commission failed to take this account in its Georgia/Louisiana decision, it should reach a different result here.

E. Excessive "Loading" Greatly Inflates Switching and Loop Costs

BellSouth's use of "loading" factors to calculate the total installed investment overstates the overall installed cost in a forward-looking network. WorldCom includes here the testimony it filed in Georgia and Florida showing that BellSouth's method overstates forward looking cost by at least 15%. Moreover, as shown in WorldCom's initial comments, BellSouth's method misallocates costs towards densely populated areas and away from less densely populated areas. The result is rates that are substantially above cost in densely populated areas. Frentrup Reply Decl. ¶¶ 13-14.

[2] Commission staff has asked WorldCom to explain how its argument differs from the argument that WorldCom made in the Georgia/Louisiana proceeding and whether it made this different argument at the state level. WorldCom is not claiming that its argument is different from the one it made previously. WorldCom is simply providing further explanation of the basis of that of the argument to show that the Commission's response in the *Georgia/Louisiana Order* is beside the point.

III. BELLSOUTH'S EXCESSIVE UNE RATES CAUSE A PRICE SQUEEZE

As WorldCom showed in its initial Comments, BellSouth's excessive UNE rates significantly limit competition in all five states. In response to WorldCom's analysis, BellSouth has apparently argued to Commission staff that a proper price squeeze analysis would be based on a premium product, such as WorldCom's Neighborhood product, rather than a typical customer with a single feature that WorldCom's analysis assumes.

But the whole point of WorldCom's analysis is to show that CLECs cannot profitably serve an average customer. WorldCom does not deny that it is possible to serve high end customers in some areas of the BellSouth states. That is why WorldCom has entered the market with its Neighborhood product. It is contrary to the public interest, however, to permit BellSouth into the long distance market as long as a price squeeze exists for a majority of consumers.

CONCLUSION

BellSouth's application for Alabama, Kentucky, Mississippi, North Carolina, and South Carolina should be denied.

Respectfully submitted,

Keith L. Seat
WORLDCOM, INC.
1133 19th Street, N.W.
Washington, D.C. 20036

(202) 887-2993

Marc A. Goldman
JENNER & BLOCK, LLC
601 13th Street, N.W., Suite 1200
Washington, D.C. 20005

(202) 639-6000

August 5, 20

Service List

I, Lonzena Rogers, do hereby certify that I have caused a true and correct copy of WorldCom, Inc.'s Reply Comments in the matter of WC Docket No. 02-150, *Application of BellSouth Corporation for Authorization Under Section 217 of the Communications Act to Provide In-Region InterLata Service in the States of Alabama, Kentucky, Mississippi, North Carolina and South Carolina*, to be served by first class mail or e-mail on August 5, 2002, on the following:

Marlene H. Dortch
Secretary
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, NW
Washington, DC 20554

Janice Myles
Wireline Competition Bureau
Federal Communications Commission
445 Twelfth Street, NW
Washington, DC 20554

Aaron Goldberger
Wireline Competition Bureau
Federal Communications Commission
445 Twelfth Street, NW
Washington, DC 20554

James Davis-Smith
U.S. Department of Justice
Telecommunications Task Force
1401 H Street, N.W., Suite 8000
Washington, D.C. 20005

Honorable John Garner
Administrative Law Judge
Alabama Public Service Commission
P.O. Box 304260
100 North Union Street
RSA Union, Suite 836
Montgomery, AL 36104

Deborah Eversole
General Counsel
Kentucky Public Service Commission
P.O. Box 615
211 Sower Boulevard
Frankfort, KY 40602-0615

Brian U. Ray
Executive Secretary
Mississippi Public Service Commission
P.O. Box 1174
Jackson, MS 39215-1174

Robert H. Bennick, Jr.
Director
Administrative Division
General Counsel
North Carolina Utilities Commission
Raleigh, NC 27699-4325

Gary E. Walsh
Executive Director
Public Service Commission of
South Carolina
101 Executive Center Drive
Columbia, SC 29210

Michael K. Kellogg
Sean A. Lev
Leo R. Tsao
Kellogg, Huber, Hansen, Todd & Evans
1615 M Street, N.W., Suite 400
Washington, D.C. 20036

Gregory C. Lawhon
Senior Vice President / General Counsel
Birch Telecom of the South, Inc.
2020 Baltimore Avenue
Kansas City, MO 64108

Rose Mulvany Henry
Birch Telecom of the South, Inc.
2020 Baltimore Avenue
Kansas City, MO 64108

Genevieve Morelli
Attorneys for KMC Telecom and
Nu Vox, Inc.
Kelley Drye & Warren LLP
1200 Nineteenth Street, NW
Washington, DC 20036

Jason Oxman
Assistant General Counsel
Covad Communications Company
600 Fourteenth Street, NW
Suite 750
Washington, DC 20005

Richard M. Rindler
Patrick J. Donovan
Michael W. Flemming
Attorney for US LEC CORP
Swidler Berlin Shereff Friedman, LLP
3000 K Street, NW
Suite 300
Washington, DC 20007

Mark C. Rosenblum
AT&T Corporation
295 North Maple Avenue
Basking Ridge, NJ 07920

Allan C. Hubbard
Attorneys for Ernest Communications, Inc.
Dickstein Shapiro Morin & Oshinsky LLP
2101 L Street, NW
Washington, DC 20037

Qualex International
Portals II
445 12th Street, S.W., Room CY-B402
Washington, D.C. 20554

Lonzena Rogers

Lonzena Rogers